

20 June 2017

To:

Minister of Health, Mrs Ellen Trane Nørby
Minister for Foreign Affairs, Mr Anders Samuelsen,

CC: Danish Parliament, Committee of Health and Committee of European Affairs

Dear Minister Mrs Ellen Trane Nørby and Mr Anders Samuelsen,

I understand from Danish colleagues that the Government of Denmark did not support the EU ban on oral tobacco ("snus") and argued against this measure as the Tobacco Products Directive was negotiated in 2013. If that is the case, this is welcome news as this the snus ban one of the most arbitrary, unscientific and counter-productive EU measures ever conceived.

The recent Eurobarometer 458 showed Swedish smoking prevalence down to 7%, while for Denmark is the figure is 19% and the EU average at 26%. Snus has made a dramatic difference to smoking and the related disease burden in Sweden but the opportunity to achieve even part of this success is denied by law in the rest of the European Union. That law is now under challenge in the Court of Justice.

I am enclosing a copy of letter by 18 experts in tobacco policy and science sent to the Commissioner for Better Regulation Mr. Frans Timmermans on 1st June. The letter argues that the Commission now take steps to annul the ban on snus as a response to the legal challenge. I hope that the Government of Denmark will intervene in the case to argue for the lifting of this ban and make representations to the Commission. This is a good moment for the EU institutions to correct a lethal policy-making error, and for Denmark to play a role in changing the policy.

The letter argues that the snus ban violates several principles of better regulation and the EU treaties. In brief:

- It does not meet the essential requirement to base EU action on evidence and understanding of the impacts.
- It is disproportionate and discriminatory. There is no possible justification for allowing cigarettes and other smokeless tobacco products but prohibiting snus.

- It does not promote the internal market with a high level of health protection. In reality, it is anti-competitive and likely to be causing material harm to health.
- It was not based on open and transparent decision-making. The justification for the prohibition is inadequate and there has been no response to substantive criticisms of the case made by the Commission in 2012.
- It ignored the views of citizens and stakeholders. The 2011 consultation findings on this measure showed significant support for lifting the prohibition.
- It violates the Charter of Fundamental Rights by denying people an option to reduce life-threatening smoking-related risks and to take personal responsibility for their health.

I would welcome your response to the proposal that the Government of Denmark should intervene to support lifting of this unjustified and harmful ban.

Your sincerely / Med venlig hilsen

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Disclosure: I have no competing interests with respect to tobacco, nicotine or pharmaceutical industries. I am former Director of public health charity Action on Smoking and Health (UK).